

**LEVEL 3 COMMUNICATIONS LLC PETITION FOR FOREBEARANCE
(CC DOCKET 03-266)**

- **Level 3 IP-PSTN and PSTN-IP communications are telecommunications services that should not be afforded special treatment.**
 - ❖ The protocol conversion merely makes Level 3's network compatible with the PSTN so that Level 3's telecommunications services customers can communicate with non-Level 3 customers. FCC precedent demonstrates that mere changes in technology used to transmit a call does not remove the call from being a "telecommunications service."
- **Grant of Level 3's proposal would be contrary to the goals of universal service by exacerbating arbitrage and phantom traffic problems.**
 - ❖ When Level 3 hands off traffic to, or takes traffic from the PSTN, such traffic uses the PSTN in the exact same way as PSTN-PSTN communications. It would make no operational sense to exempt Level 3 from its obligation to compensate LECs for use of the PSTN.
 - ❖ Aside from the lack of policy basis for granting the Petition, it likely is not technically feasible even to identify the traffic as exempt from access charges. This technical deficiency likely would lead to gaming the system through carriers erroneously claiming that traffic falls within the Level 3 exemption.
- **Level 3's proposal to exclude rural areas from their Petition would, in reality, provide no cost recovery by rural carriers.**
 - ❖ About half of CenturyTel's lines are not protected by the rural exemption.
 - ❖ Even where a terminating LEC enjoys the rural exemption today, it rarely, if ever, would collect terminating access on Level 3 traffic.
 - Level 3 rarely would interconnect directly with CenturyTel or other rural LECs, but rather would rely on other, non-rural carriers to route (transit) Level 3 traffic ultimately bound for rural customers. The traffic would be exempt from access charges when received by the non-rural transiting carrier, and it is unlikely that such traffic could be re-routed in such a way as to allow the application of access charges by the terminating rural network operator.

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➤ **Level 3 has failed to meet its burden under Section 10 of the Communications Act.**

- ❖ Grant of forbearance would lead to unjust results. (*Section 10(a)(1)*)
 - There are costs associated with the transport, switching and termination of traffic. Granting the Petition would deny LECs of just and reasonable compensation.
 - The Petition is one-sided, with all benefits inuring to Level 3. While Level 3 proposes that it would no longer have to pay access charges, the Petition never suggests that Level 3 will forego such compensation for PSTN-IP traffic received from other carriers, for which Level 3 could continue to collect termination charges.
- ❖ Grant of the Petition may harm consumers. (*Section 10(a)(2)*)
 - The amount of traffic traversing switched networks such as CenturyTel's is increasing, due to large volumes of wireless and Internet-bound traffic. LECs and other facilities-based service providers are forced to increase the capacity of their networks to handle the increasing volume, often without any corresponding increase in revenues, or users will experience congestion on these networks. Grant of the Level 3 petition would further stimulate traffic and network congestion without providing for cost recovery necessary to support the addition of facilities to relieve the congestion.
 - Loss of access charge revenues on IP-based services could have a significant effect on rural LECs' ability to invest in affordable telecommunications services, and create an unsustainable business model in the long term.
 - Any change to the treatment of IP-based services must take into account the impact on rural networks and the communities they serve, and should not be implemented in the piecemeal fashion contemplated by Level 3's Petition.
- ❖ Grant of forbearance here would disserve the public interest. (*Section 10(a)(3)*)
 - The entire telecommunications industry and policy-makers have been working through multiple channels (such as NARUC and the ICF) toward a comprehensive, consensus-based solution to the issues of intercarrier compensation, universal service and the regulatory treatment of different IP technologies. Level 3 fails to justify why it should receive special treatment when the rest of the industry, including providers of IP-based services, are working toward a comprehensive solution. Granting the Level 3 petition will derail the consensus-building process.